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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,110	08/24/2004	Mark Robert Lambert	001-2004	5109
37251	7590	11/12/2008	EXAMINER	
SCOTT A. NELSON 1740 SW LOBELIA PORTLAND, OR 97219			CASLER, TRACI	
		ART UNIT	PAPER NUMBER	
		3629		
		MAIL DATE		DELIVERY MODE
		11/12/2008		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/711,110	LAMBERT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Traci L. Casler	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 24 August 2004.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-4 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 08/24/2004.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

This action is in response to papers filed on August 24, 2004.

Claims 1-4 are pending.

Claims 1-4 are rejected.

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-4 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

2. As to claims 1-4 in order for a method/process claim to fall within statutory subject matter the claims be tied to either a machine or transformation. A two-branched inquiry is used to show that a claims is statutory by either tying it to a particular machine or a by showing that the claim transforms an article. The use of a specific machine or transformation of an article must impose "**meaningful limits**" on the claims' scope to impart patent-eligibility. The involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity, such as storing, gathering, displaying, sending and receiving of data as this does not impart a significant impact in the solution to the process. See *in re Bilski*.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Publication 20050216295 Abrahamsohn; Method of and system for obtaining data from multiple sources and ranking documents based on meta data obtained through collaborative filtering and other matching techniques.

5. As to claims 1 and 3 Abrahamsohn teaches:

6. (a) a recruiting entity for initiating an opportunity for employment that includes an opportunity description, an initial pool of qualified resources, a minimum requirement of qualifications and an agreement for payment of services to a managing entity (b) a managing entity distributing said opportunity description to an initial pool of resources(**Pg. 2 12; Pg. 5 52**)

7. (c) Potential resources receiving said package and in response thereto,

8. 1) applying for the opportunity, or 2) referring another qualified potential resource(**C. 2 ¶ 12**) *\*\* The examiner notes that at this point the broadest interpretation of the claim language has been met, in which an individual applies for the job themselves vs. submitting a referral of which limitations d-e refer to and as claim language is in the alternative would not be required to be found, however for the sake of advancing prosecution the examiner has show the limitations can be found in the prior art as well.\*\**

9. (d) Accepting a referral that includes said opportunity description, and in response thereto,
10. (1) recording in a referral database the resource description and the primary referral identifier; and (2) recording in a referral database the secondary referral identifier; and **(Pg. 6 ¶ 56)**
11. (3) rewarding the primary referral identifier; and (4) distributing said opportunity description to the secondary resource **(Pg. 9 ¶ 84)**.
12. (e) receiving an indication that a triggering event has occurred with respect to said opportunity description and the resource, and in response thereto,
13. (1) determine a referral fee according to the related referral-payment information, and (2) generate information indicating that payment of the referral fee is due. **(Pg. 9 ¶ 85).**
14. As to claims 2 and 4 Abrahamsohn teaches ATS for providing the resumes(Pg 2 ¶ 13). The examiner notes that who provides the pool of resources is deemed non-functional descriptive material. As who provides has no effect on the steps as they are currently claimed/performed.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Casler whose telephone number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Traci L Casler/  
Examiner, Art Unit 3629